

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	File No.: EB-07-TC-364
Y Pay More	)	
	)	NAL/Acct. No.: 200932170962
	)	FRN: 0017274101
	)	

**FORFEITURE ORDER**

**Adopted: August 26, 2011****Released: August 29, 2011**

By the Commission:

**I. INTRODUCTION**

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of \$37,000 against Y Pay More for willful and repeated violations of section 227 of the Communications Act of 1934, as amended (“*Act*”),<sup>1</sup> and the Commission’s related rules and orders,<sup>2</sup> by delivering seven unsolicited advertisements to the telephone facsimile machines of six consumers.

**II. BACKGROUND AND DISCUSSION**

2. The Telephone Consumer Protection Act of 1991 (“*TCPA*”) was enacted by Congress to address problems of abusive telemarketing, in particular junk faxes.<sup>3</sup> As Congress recognized, unsolicited faxes often impose unwanted burdens on the called party, including costs of paper and ink, and making fax machines unavailable for legitimate business messages.<sup>4</sup> Section 227(b)(1)(C) of the Act makes it “unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States . . . to use any telephone facsimile machine, computer, or other device to send, to a telephone facsimile machine, an unsolicited advertisement” unless the sender has an established business relationship with the recipient.<sup>5</sup>

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<sup>1</sup> 47 U.S.C. § 227.

<sup>2</sup> 47 C.F.R. § 64.1200(a)(3).

<sup>3</sup> Telephone Consumer Protection Act of 1991, Pub. L. No. 102-243, 105 Stat. 2394, *codified at* 47 U.S.C. § 227. *See also* Junk Fax Prevention Act of 2005, Pub. L. No. 109-21, 119 Stat. 359 (2005).

<sup>4</sup> *See, e.g.*, S. Rep. No. 1462, 102d Cong., 1<sup>st</sup> Sess. 2 (1991); H. Rep. No. 102-317, 102d Congress, 1<sup>st</sup> Sess. 10 (1991).

<sup>5</sup> 47 U.S.C. § 227(b)(1)(C); 47 C.F.R. § 64.1200(a)(3).

3. Pursuant to section 503(b)(5) of the Act,<sup>6</sup> the Enforcement Bureau (“Bureau”) issued a junk fax citation<sup>7</sup> to Y Pay More on March 7, 2007, in response to one or more consumer complaints alleging that Y Pay More had faxed unsolicited advertisements. Thereafter, the Commission received additional complaints alleging that Y Pay More continued to engage in the same conduct, and thus continued to violate section 227 of the Act and the Commission’s rules. These violations, which occurred after the citation, resulted in the Bureau, pursuant to section 503(b)(1) of the Act,<sup>8</sup> issuing three *Notices of Apparent Liability* (“NAL”) against Y Pay More: on December 28, 2007, in the amount of \$23,500; on July 1, 2008, in the amount of \$9,000; and on July 8, 2009, in the amount of \$4,500.<sup>9</sup> Each of the *NALs* ordered Y Pay More either to pay the proposed forfeiture amount within thirty days or to submit evidence or arguments in response to the *NAL* to show that no forfeiture should be imposed or that some lesser amount should be assessed.

4. As with the citation, Y Pay More did not respond to the *NALs*. Accordingly, we affirm our findings that Y Pay More violated the Act and our rules on seven separate occasions. Since we have no evidence to suggest that the proposed forfeiture should be reduced or cancelled, we hereby impose a total forfeiture of \$37,000 for Y Pay More’s willful and repeated violation of section 227 of the Act, and section 64.1200(a)(3) of the Commission’s rules.<sup>10</sup>

### III. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED**, pursuant to section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and section 1.80(f)(4) of the Commission’s rules, 47 C.F.R. § 1.80(f)(4), that Y Pay More **IS LIABLE FOR A MONETARY FORFEITURE** to the United States Government in the sum of \$37,000 for willfully and repeatedly violating section 227(b)(1)(C) of the Communications Act, 47 U.S.C. § 227(b)(1)(C), and section 64.1200(a)(3) of the Commission’s rules, 47 C.F.R. § 64.1200(a)(3).

6. Payment of the forfeiture shall be made in the manner provided for in section 1.80 of the Commission’s rules within thirty (30) days of the release of this Order. If the forfeiture is not paid within the period specified, the case may be referred to the Department of Justice for collection pursuant to section 504(a) of the Act.<sup>11</sup> Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Account Number and FRN referenced above. Payment by check or money order may be mailed to

<sup>6</sup> 47 U.S.C. § 503(b)(5) (authorizing the Commission to issue citations to persons who do not hold a license, permit, certificate or other authorization issued by the Commission, and are not an applicant for any of those listed instrumentalities, for violations of the Act or the Commission’s rules and orders).

<sup>7</sup> Citation from Kurt A. Schroeder, Deputy Chief, Telecommunications Consumers Division, Enforcement Bureau, File No. EB-07-TC-364 issued to Y Pay More on March 7, 2007.

<sup>8</sup> 47 U.S.C. § 503(b)(1) (authorizing the Commission to assess a forfeiture penalty against any person who does not hold a license, permit, certificate or other authorization issued by the Commission, or an applicant for any of those listed instrumentalities, so long as such person (A) is first issued a citation of the violation charged; (B) is given a reasonable opportunity for a personal interview with an official of the Commission, at the field office of the Commission nearest to the person’s place of residence; and (C) subsequently engages in conduct of the type described in the citation).

<sup>9</sup> See *Y Pay More*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 21894 (Enf. Bur. 2007); *Y Pay More*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 10328 (Enf. Bur. 2008); and *Y Pay More*, Notice of Apparent Liability for Forfeiture, 24 FCC Rcd 8987 (Enf. Bur. 2009); see also 47 U.S.C. § 503(b)(1).

<sup>10</sup> 47 C.F.R. § 64.1200(a)(3).

<sup>11</sup> 47 U.S.C. § 504(a).

Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Y Pay More shall also send electronic notification on the date said payment is made to [Johnny.Drake@fcc.gov](mailto:Johnny.Drake@fcc.gov). Requests for full payment under an installment plan should be sent to: Chief Financial Officer -- Financial Operations, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554. Please contact the Financial Operations Group Help Desk at 1-877-480-3201 or Email: [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov) with any questions regarding payment procedures.

7. **IT IS FURTHER ORDERED** that a copy of the Forfeiture Order shall be sent by First Class mail and certified mail return receipt requested to Y Pay More, Attention: Roger Abraham, President/Owner, 1928 Balboa Street, San Francisco, California 94121; Y Pay More, Attention: Roger Abraham, President/Owner, 1804 Anastasia Drive, Brentwood, California 94513; and Y Pay More, Attention: Roger Abraham, President/Owner, 1541 Solitude Way, Brentwood, California 94513.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary